

A. B. asks the Utah Labor Commission to review Administrative Law Judge La Jeunesse's dismissal of Ms. B.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and Utah Code Ann. §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Ms. B. seeks workers' compensation benefits for illness allegedly caused by her work at Brama. Judge La Jeunesse scheduled an evidentiary hearing on Ms. B.'s claim for May 17, 2006, at 1 p.m. in Salt Lake City. Ms. B., who lives in Reno, Nevada, did not appear in person or by telephone at the time set for the hearing. Judge La Jeunesse therefore noted Ms. B.'s default, canceled the hearing and excused Brama and its insurance carrier.

Commission records indicate that Ms. B. did call and speak to a Commission support specialist one hour later, at 2 p.m. Apparently Ms. B. was confused by the difference in time zones between Salt Lake City and Reno.

On May 18, 2006, Judge La Jeunesse formally entered Ms. B.'s default and dismissed her claim. On May 26, 2006, Ms. B. submitted what she termed an "appeal" of Judge La Jeunesse's decision. However, the substance of Ms. B.'s request is that her default be set aside and that another hearing be scheduled on the merits of her claim.

DISCUSSION AND CONCLUSION OF LAW

Pursuant to § 63-46b-11 of the Utah Administrative Procedures Act, and in the context of this workers' compensation proceeding, any request for relief from default must first be considered by the ALJ who entered the default. The Commission therefore remands this matter to Judge La Jeunesse for consideration of whether Ms. B.'s request for relief from default should be granted.

ORDER

The Commission remands this matter to Judge La Jeunesse for further proceedings consistent with this decision. It is so ordered.

Dated this 27th day of June, 2006.

R. Lee Ellertson
Utah Labor Commissioner